

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF IDAHO POWER</b>	)	
<b>COMPANY'S INTERIM AND PROSPECTIVE</b>	)	<b>CASE NO. IPC-E-01-16</b>
<b>HEDGING, RESOURCE PLANNING,</b>	)	<b>(PHASE II)</b>
<b>TRANSACTION PRICING, AND IDACORP</b>	)	
<b>ENERGY SOLUTIONS (IES) AGREEMENT.</b>	)	<b>ORDER NO. 29446</b>
	)	

---

In August 2001, the Commission directed the parties to make a good faith effort to settle issues regarding the adequacy of Idaho Power's hedging and risk management strategies, additional compensation to Idaho Power for transmission system and other system resource usage by IDACORP Energy, LP ("IE"), and whether the transfer prices for both day-ahead and real-time transactions between Idaho Power and IE approved in Commission Order No. 28852 should be modified on a prospective basis. Order No. 28831. In August 2002, the Commission approved an agreement reached by the parties regarding the Company's risk management and hedging practices. Order No. 29102. As the parties continued to negotiate on these issues, several related power cost adjustment (PCA) issues were transferred to this docket for resolution in June 2003 from Case No. IPC-E-03-5. Order No. 29258. After extensive negotiations, the parties submitted a Joint Motion for Acceptance of Settlement and Stipulation in February 2004. If approved, Idaho Power Company would credit Idaho customers approximately \$10 million from May 2003 through December 2005 to settle the balance of the contested claims in this case.

After reviewing the extensive record and the provisions of the Stipulation, the Commission accepts the Stipulation as a fair, just and reasonable resolution to the issues remaining in this case.

**BACKGROUND**

Idaho Power is an electric utility engaged in the generation, transmission, distribution and sale of electric energy and provides retail electric service to approximately 380,000 customers in southern Idaho and eastern Oregon. In February and March 2001, Idaho Power filed applications for authority to increase its rates under its Power Cost Adjustment (PCA) rate schedule. These applications were separately docketed as Case No. IPC-E-01-7 ("the -7 case") and Case No. IPC-E-01-11 ("the -11 case"), but were processed as a joint case. In Order No. 28722 issued in the -7 and -11 cases, the Commission allowed Idaho Power to immediately

recover \$168.3 million dollars through the PCA mechanism. The Commission deferred recovery of approximately \$59 million pending further investigation. As a part of that investigation, the Commission held an evidentiary hearing examining Idaho Power's ". . . trading practices (to include hedging, transmission and wheeling charges, Mid-C pricing, and the use of weighted-average pricing), the November trading event and the Company's resource planning." Order No. 28722 at 17.

In Order No. 28731 the Commission separated a number of the issues identified for investigation in the -7 and -11 cases into a third case which was docketed as IPC-E-01-16 ("the -16 case"). In Order No. 28731 the Commission described the issues to be addressed in the -16 case as ". . . interim and prospective issues regarding Idaho Power's trading practices (to include hedging, transmission and wheeling charges, Mid-C or Palo Verde pricing indexes, and use of weighted-average pricing for real-time purchases); the pricing, hedging and transmission terms of the IES Agreement and Order No. 28596; and the flexibility of the Company's short-term planning. . . ." Order No. 28731 at 5.

In response to a joint motion by the parties in the -16 case, the Commission issued Order No. 28831 on August 24, 2001 which further bifurcated the issues in the -16 case into Phase I and Phase II. Testimony and exhibits relating to the Company's trading practices (hedging, transmission and wheeling charges, Mid-C pricing and weighted-average pricing) on a prospective basis from March 1, 2001, were presented in hearings held on August 28-30, 2001 in Phase 1. All of the other issues identified for review in the -16 case, i.e., Idaho Power's approach to hedging and risk management strategies, additional compensation to Idaho Power for transmission system and other system resource usage by IE, and whether the transfer prices for both day-ahead and real-time transactions between Idaho Power and IE approved in Commission Order No. 28852 should be modified on a prospective basis, were assigned to Phase II. The parties were encouraged to make a good faith effort to settle the case.

Representatives from Idaho Power Company, the Commission Staff and various customer groups attended the settlement workshops. These customer groups included AARP, Industrial Customers of Idaho Power, Micron Technology, Idaho Irrigation Pumpers Association, J.R. Simplot Company, Idaho Retailers Association, and Advanced Energy Strategies, Inc.

In early April 2002, Idaho Power advised the parties that because of problems with the transfer pricing methodology in use for real-time transactions under the Supply and Management Agreement, Idaho Power requested that the settlement discussions be restructured to separate the risk management and hedging policy issues from the issues relating to the transactions between Idaho Power and IE. This would allow the parties to complete the risk management and hedging portions of the settlement and take up the balance of the -16 case issues at a later date. The parties subsequently agreed to a stipulated settlement of hedging and risk management issues that was later approved by Commission Order No. 29102 in August 2002.

On June 21, 2002, IDACORP announced it planned to wind down IE's power marketing trading business. During the process of concluding IE's business, Idaho Power determined that it had not received prior approval from the Federal Energy Regulatory Commission (FERC) for a number of wholesale power transactions between Idaho Power and IE and disclosed that fact to FERC. The parties delayed settlement negotiations until these affiliate transaction issues were resolved at the federal level. On May 16, 2003, FERC completed its non-public investigation into these transactions and issued an Order approving a Stipulation and Consent Agreement between Idaho Power and the FERC Staff.

During the review of Idaho Power's 2003-2004 PCA filing, the Commission identified several issues that needed to be examined further. Case No. IPC-E-03-5, Order No. 29258. At the request of the parties, the Commission directed that four issues be transferred to this present case for negotiation. Order No. 29258. These issues include: 1) pricing of real-time transactions between Idaho Power and IE; 2) recovery of IE-Tri State Transmission costs; 3) sharing of the FERC settlement; and 4) continuance of payment for IE management contract benefits.

Following numerous settlement conferences to resolve these issues over the course of three years, the parties that remained agreed to a global settlement that addresses all of the issues arising out of or relating to the relationship between Idaho Power and IE. This global settlement is described more particularly below.

## **STIPULATED SETTLEMENT OF REMAINING ISSUES**

Because the transactions between Idaho Power and IE span multiple years, involve thousands of transactions, and because the issues involve multiple contested claims, the parties agreed on a single global settlement amount as a compromise of the parties' respective contested claims. The parties intend to resolve all outstanding compensation issues including, but not limited to, the following:

- (a) All issues arising out of FERC's informal, non-public investigation that was resolved in May 2000 by Stipulation and Consent Agreement in Docket No. IN03-9-000.
- (b) All issues arising out of the IPUC-approved Electricity Supply and Management Agreement between Idaho Power and IE.
- (c) All compensation issues relating to transactions involving IE's use of the Idaho Power transmission system, and any ancillary services or scheduling services or other services received by IE from Idaho Power from March 2001 through December 2002. These services specifically included but are not limited to transmission, wheeling, flips, arbitrage transactions, parking and lending, operating reserves, spinning reserves and load following requirements.
- (d) All issues relating to IE's operations which utilized former Idaho Power employees, Idaho Power "good will," Idaho Power credit, and other Idaho Power assets through 2002 when IE phased out operations.
- (e) Idaho Power's trading practices (including hedging, use of Mid-C or Palo Verde pricing indexes, and use of the weighted average pricing methodology for real-time transactions) from March 1, 2001 until IE ceased operating on August 1, 2002.
- (f) Pricing of real-time transactions for the month of July 2002 using the weighted average methodology or the high-low methodology between Idaho Power and IE.
- (g) Recovery of IE-Tri State transmission costs paid while servicing the contract.
- (h) Sharing of FERC settlement amounts associated with contract transactions between Idaho Power and IE that were not properly filed with FERC.

- (i) Any additional settlement amounts associated with services provided by Idaho Power to IE with the Truckee-Donner contract, the Montana Power load following agreement, and the Tri-State contract for periods not included in the FERC settlement.
- (j) Continuance of the \$2,000,000 annual revenue credit for IE management contract benefits approved in Case No. IPC-E-00-13, Order No. 28596.

The parties also agreed there currently is not and there will be no customer responsibility for IE contract buyouts and litigation of contracts associated with any non-operating transactions, including but not limited to the Grays Harbor and Overton contracts.

The parties acknowledged that there are several proceedings currently pending before FERC and in the courts in which certain California and Pacific Northwest entities have alleged that IE and Idaho Power dba IE, together with numerous other entities, engaged in wholesale market activities that increased the cost of wholesale energy in California and the Pacific Northwest and violated the anti-trust laws. The parties agreed that if, in these proceedings, FERC or a court of competent jurisdiction ultimately issues a final unappealable ruling that Idaho Power or IE should receive any payment(s) or are directed to pay Idaho retail jurisdictional customers some amount, payment of those amounts to customers are neither precluded nor required by this settlement.

The parties also agreed that this agreement is not intended to settle any inter-affiliate expense allocation issues in Idaho Power's pending general rate case, docket No. IPC-E-03-13.

The settlement amount consists of \$5,826,186.02 benefits on a system basis that are currently being passed through to Idaho Power's customers in the 2003-2004 PCA. Idaho customers are currently receiving benefits of \$4,457,032.30 in the 2003-2004 PCA. An additional \$5.5 million will be flowed through to Idaho customers by continuing the \$167,000 per month credit in the PCA from April 1, 2003 through December 2005. This credit will continue to be a separate line item in the PCA calculation with 100% of the benefit going to Idaho customers. According to the Stipulation, Idaho customers have already received or will receive a total of \$9,957,032.31 from the total system settlement amount of \$12,296,774.26.

#### **PARTIES' RECOMMENDATION**

All parties that materially participated in negotiating affiliate issues (i.e., Idaho Power Company, Commission Staff, Industrial Customers of Idaho Power, J.R. Simplot Company, Idaho Retailers Association, and Micron Technology) signed the above-described Stipulation.

These parties support adoption of the Stipulation and its acceptance by the Commission as a resolution of all the outstanding issues. The parties submit that an evidentiary hearing is not required, that the Stipulation is in the public interest, and that all the terms of the Stipulation are fair, just and reasonable. Thus, the matter is ripe for Commission review and determination of whether the stipulated settlement is indeed just, fair and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy.

### **COMMISSION FINDINGS AND DISCUSSION**

Pursuant to Commission Rule 274 we shall decide whether to accept the Stipulation and Settlement Agreement based on the record currently before us. IDAPA 31.01.01.274. The record is substantial and all parties that materially participated in the settlement negotiations of affiliate issues have signed this Agreement. Accordingly, we find further proceedings are not necessary for us to determine whether we should accept this Agreement.

The combination of poor hydroelectric conditions and unprecedented high wholesale market prices precipitated the western energy crisis of 2000-2001 and wrought PCA rate increases of a magnitude not seen or anticipated since the mechanism's inception in 1993. In light of the manipulative strategies used by Enron energy traders and others in California, we have heard from many Idaho Power ratepayers who were understandably concerned that these high rates were attributable to improper transactions between Idaho Power and its energy trading affiliate, IE. Although Idaho Power cannot be held responsible for high rates resulting from the Northwest's multi-year drought or wholesale energy price volatility, we believe this Stipulation appropriately compensates ratepayers for benefits received by IE.

The Commission is confident that the long list of issues identified above has been fully vetted over the course of approximately 12 settlement meetings between September 2001 and September 2003. We appreciate the considerable efforts of the parties over the last three years to resolve these highly technical issues in a manner that benefits both Idaho Power Company and its customers. As a result, Idaho customers have received or will receive approximately \$10 million in credits that will reduce power costs through December 2005 in the corresponding PCA cases. Likewise, Idaho Power Company will benefit by ending the regulatory uncertainty related to its affiliate transactions with IE in this case.

After reviewing the Stipulation, the Commission therefore adopts and approves it as presented. We find that this Stipulation finally resolves the remaining issues among the parties.

We further find that this Agreement has been made to compromise contested claims and is entered largely for the purpose of avoiding expense, inconvenience, and uncertainty of further litigation. Finally, pursuant to Commission Rule 275 we find that the parties have carried their burden of showing that the Agreement is just, fair and reasonable, in the public interest, and in accordance with the law and regulatory policy of this State. IDAPA 31.01.01.275. Accordingly, we accept the Stipulation as proposed by the parties without modification.

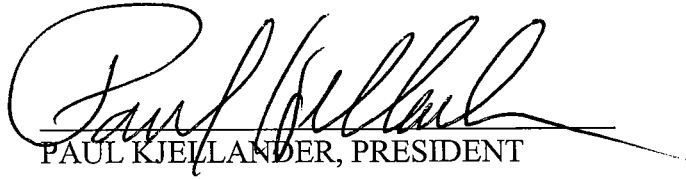
### **ORDER**

IT IS HEREBY ORDERED that the proposed Stipulation is just, fair and reasonable, in the public interest, and in accordance with the law and regulatory policy of this State. Accordingly, we accept the Stipulation as proposed by the parties in settlement of the outstanding issues in this docket.

IT IS FURTHER ORDERED that the parties shall comply with all terms contained in the Stipulation.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. IPC-E-01-16 may petition for reconsideration within twenty-one (21) days of the service date of this order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. IPC-E-01-16. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

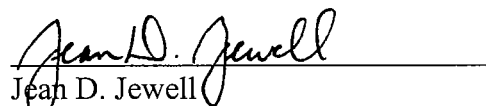
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 15<sup>th</sup>  
day of March 2004.

  
PAUL KJEILANDER, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
DENNIS S. HANSEN, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

O:IPCE0116\_ln3